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STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE REAL ESTATE APPRAISER BOARD

In the matter of:

JOSEPH F. DOWNEY, SCRREA

CONSENT ORDER

This matter was opened before the New Jersey State Real Estate Appraiser Board (the "Board") upon the Board's receipt of four independent complaints regarding appraisals prepared by Respondent Joseph F. Downey. Specifically, the Board received: (1) a complaint dated February 1, 2010 submitted by Provident Funding regarding an appraisal report dated June 29, 2007 (effective date June 22, 2007) that respondent prepared on property located at 1101 Maltby Avenue, South Plainfield, New Jersey (hereinafter the "South Plainfield" appraisal); (2) a complaint dated December 31, 2010 filed by Chase Home Lending regarding an appraisal report that respondent prepared on property located at 67 Larchmont Avenue, West Milford, New Jersey dated February 12, 2007 (the "West Milford" appraisal); (3) a complaint filed by Carol De Venuta (received by the Board on August 22, 2011) regarding an appraisal report that respondent prepared on property located at 1149 East Hickory Drive, Lacey Township, New Jersey dated June 16, 2010 (the "Lacey Township" appraisal); and (4) a complaint dated May 3, 2012 filed by the United States Department

of Housing and Urban Development ("HUD") regarding an appraisal report that respondent prepared on property located at 1073 Farview Place, Hillside, New Jersey dated June 17, 2011 (the "Hillside" appraisal).

Following receipt of each of the four complaints, the Board wrote to respondent and requested that he both respond to the allegations of the complaint in writing and provide a copy of the his workfile for the appraisal. In each of the four cases, Respondent failed to respond to the Board's initial request for information and documentation. Thereafter, in each case, the Board forwarded multiple letters and/or e-mails to respondent reiterating the initial requests for a written response and for his workfile. Respondent consistently failed to make any response at all to the multiple requests made by the Board, notwithstanding that all requests were forwarded to the address of record that he maintained with the Board and/or to his business e-mail address.

In the aggregate, the Board finds that Respondent failed to timely respond to a total of twelve independent requests made by the Board for written responses to the four complaints against him and for provision of his workfiles. Based thereon, the Board concludes that respondent repeatedly violated the requirements of the Uniform Duty to Cooperate Regulations, specifically N.J.A.C. 13:45C-1.3(a)(1) and N.J.A.C. 13:45C-13.(a)(2), and concludes that, in doing

so, repeatedly engaged in professional misconduct.

Respondent ultimately appeared before the Board, *pro se*, for investigative hearings related to this matter on April 23, 2013 and May 28, 2013. Upon consideration of available information, to include the four complaints and documents submitted in support of each complaint, and information provided by respondent, to include his testimony regarding each of the four complaints (when appearing before the Board, respondent for the first time produced his original work-files for three of the four reports), the Board finds that respondent failed to comply with the requirements of the Uniform Standards of Professional Appraisal Practice (the "USPAP") when preparing each of the four reports. Specific violations found for each report are as follows:

- 1) South Plainfield Appraisal - The Board finds that, when preparing the South Plainfield Appraisal, respondent violated the Conduct Section of the Ethics Rule of the USPAP, and violated Standards Rules 1-1(b), 1-1(c), 1-4, 1-5(a), 1-6(a), 1-6(b), 2-1(a) and 2-1(b). The finding of the Ethics Rule violation is based on a determination that respondent accepted the appraisal assignment after being told that a minimum valuation of \$385,000 was needed to support the proposed loan on the property, and thereafter prepared an appraisal with an inflated value conclusion (respondent valued the property at \$400,000) in order to reach or exceed the minimum

valuation that had been communicated to him. The violations of individual Standards Rules are based, in part, on determinations that, when preparing the appraisal: respondent analyzed a clearly superior property sale when preparing the sales comparison approach, failed to make adequate adjustments to reflect differences between the subject property and said comparable sale, placed disproportionate and inappropriate weight on said comparable sale in the reconciliation process, failed to identify and/or consider relevant comparable sales and/or listings, to include a listing of a property similar to (and located on the same block as) the subject property.

2) West Milford Appraisal - The Board finds that, when preparing the West Milford Appraisal, respondent violated Standards Rules 1-1(a), 1-1(b) and 2-1(b). Said findings are based, in part, on determinations that respondent failed to analyze the agreement of sale that was pending as of the effective date of the appraisal and failed to analyze a sale of the subject property that occurred within the three years prior to the effective date of the appraisal.

3) Lacey Township Appraisal - The Board finds that, when preparing the Lacey Township appraisal, respondent violated the Competency Rule of the USPAP, and violated standards Rules 1-1(b), 1-1(c), 1-6(a) and 1-6(b). The finding of a violation of the Competency Rule is based on a determination that respondent was not

sufficiently knowledgeable and experienced with the specific property type (residential property bordering a lagoon), did not have sufficient knowledge of lagoon/water influences and/or of the market area (Lacey Township), and the related determination that respondent failed to thereafter take all necessary or appropriate steps to complete the assignment competently as required by the Competency Rule. Findings of specific Standards Rules violations are based, in part, on determinations that respondent failed to make adequate adjustments when preparing the sales comparison approach for properties that were lagoon-front (and/or adjustments for the associated views), failed to adequately describe riparian rights or location, and failed to adequately reconcile data developed in the report.

4) Hillside Appraisal - The Board finds that, when preparing the Hillside Appraisal, respondent violated the Competency Rule of the USPAP and violated Standards Rules 1-1(a), 1-1(b) and 1-4. The above findings are based, in part, on determinations that respondent failed to have an adequate rationale for the specific comparable sale selections which he made when preparing the sales comparison approach, failed to identify and/or analyze comparable sales which were more similar in age, GLA and room count to the subject property than the sales which he analyzed, including one sale which occurred on the same street as the subject property, and failed

to adequately verify information set forth in the report.

Respondent's multiple violations of requirements of the USPAP when preparing each of the four appraisals constitute repeated acts of professional misconduct, as specified within N.J.A.C. 13:40A-6.1 (requiring that an appraiser must ensure that all appraisals conform to the USPAP, and that failure to comply with provisions of the USPAP may be found to constitute professional misconduct). The Board has thus concluded that cause for disciplinary sanction against respondent exists based on respondent's multiple violations of the Duty to Cooperate Regulations and based on his having prepared four appraisal reports that substantially failed to conform to multiple requirements of the USPAP, all of which provide grounds for disciplinary action pursuant to N.J.S.A. 45:1-21(d) (engaging in repeated acts of negligence or incompetence), N.J.S.A. 45:1-21(e) (engaging in professional misconduct) and 45:1-21(h) (failing to comply with provisions of Board regulations).

The parties desiring to resolve this matter without the need for further administrative proceedings, and the Board finding that good cause exists for the entry of the within Order,

IT IS on this 27th day of May, 2014:

ORDERED and AGREED:

1. The certification of respondent Joseph F. Downey to practice residential real estate appraising in the State of New

Jersey is hereby suspended for a period of three years, the first nine months of which (commencing on May 27, 2014 and continuing through February 26, 2015) shall be served as a period of active suspension, and the remaining two years and three months of which (commencing on February 27, 2015 and continuing through May 26, 2017) shall be stayed, and served as a period of "probation," provided that respondent complies with all other terms and conditions of this Order.

2. Respondent is assessed a civil penalty in the amount of \$20,000. Respondent may satisfy the civil penalty assessments by making monthly payments to the Board during the three year period of suspension, the first nine of which (that is, all payments made during the period of active suspension) shall be in the amount of \$100.00, the following twenty six of which shall be in the amount of \$337.04 and the final payment to be in the amount of \$336.96, for a total payment of \$10,000 over the three year period of suspension. The first monthly payment shall be due and payable on or before June 26, 2014, and all subsequent payments shall be due or payable on or before the 26th day of each succeeding month, with the final payment to be due and payable on or before May 26, 2017. Provided that respondent hereafter makes all required payments, and complies with all terms and conditions of this Order and with the requirements of all statutes and regulations governing the practice of real estate

appraising in the State of New Jersey, the Board will forgive the remaining \$10,000 in penalties at the conclusion of the three year period of suspension. In the event, however, that respondent fails to timely make required payments, respondent shall be deemed to be non-compliant with the terms and conditions of this Order and the entire \$20,000 penalty will be deemed immediately owing, in full, to the Board.

3. Respondent is hereby assessed costs, limited to transcript costs, in the amount of \$801.75, which costs shall be due and payable in full at the time of entry of this Order.

4. Respondent shall, prior to resuming any practice of appraising in the State of New Jersey (either during the period of stayed suspension or thereafter) attend and successfully complete the following courses:

- (1) a 30 hour course in Basic Appraisal Procedures;
- (2) a 15 hour course in Report Writing and Case Studies;
- and
- (3) a 15 hour course in the Uniform Standards of Professional Appraisal Practice.

Prior to commencing said courses, respondent shall provide all available information regarding the courses he proposes to take to the Executive Director of the Board, and shall obtain pre-approval, in writing, from the Executive Director for each proposed courses.

Respondent shall thereafter be responsible to ensure that documentation of successful completion of each course is forwarded by each course provider to the Board.

NEW JERSEY STATE REAL ESTATE
APPRAISERS BOARD

Cheryle A. Randolph-Sharpe

By:

Cheryle Randolph-Sharpe
Board President

I represent that I have carefully read and considered this Order, and consent to the entry of the Order by the Board.

[Signature]
Joseph F. Downey, SCRREA
5/15/14

Dated:

I consent to the form of Order and entry of the Order by the Board.

Richard A. West

Richard A. West, Esq.
Counsel for Respondent

Dated:

5-19-14